



**THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994
AND THE OFFICE OF COMMUNITY ORIENTED POLICING (COPS)**

**AN EFFECTIVE, BALANCED APPROACH TO CRIME CONTROL,
TERRORISM PREVENTION, AND INCREASED HOMELAND SECURITY**

**A REPORT BY SENATOR JOSEPH R. BIDEN, JR.
SEPTEMBER 2004**

I will vote for this bill, because, as much as anything I have ever voted on in 22 years in the U.S. Senate, I truly believe that passage of this legislation will make a difference in the lives of the American people. I believe with every fiber in my being that if this bill passes, fewer people will be murdered, fewer people will be victims, fewer women will be senselessly beaten, fewer people will continue on the drug path, and fewer children will become criminals.

Senator Joseph R. Biden, Jr.
August 22, 1994

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EXECUTIVE SUMMARY

This September marks the 10 year anniversary of the Violent Crime Control and Law Enforcement Act of 1994 (“1994 Act”). This legislation, the last major crime prevention package passed by Congress, was the culmination of over five years of congressional hearings, tough negotiations, and bi-partisan compromise. The Act’s passage required political courage on both sides of the aisle, and to ensure its passage many conservative legislators came to agree that the federal government could play an important role in fighting crime. Fortunately, the legislation passed both houses of Congress and was signed into law by President Clinton. The legislation helped create a Federal, state, and local partnership that has helped reduce crime across the board – in large cities and small towns.

Over the past decade, we learned that more law enforcement officers on the streets engaged in community policing helps reduce crime. Although this is a reasonable proposition, it is one that has been embraced by very few in the Republican Party. After the passage of the 1994 Act, the Department of Justice (DOJ) created the Office of Community Oriented Policing Services (COPS) to administer direct grants to law enforcement agencies for hiring officers. This office reduced much of the red tape involved in obtaining grants and expanded the concept of community oriented policing throughout the nation. To date, we have funded more than 118,000 new officers to patrol our neighborhoods and communities, and by any independent measure, the program has been tremendously successful. It has been endorsed by every major law enforcement

organization in the nation, and most law enforcement officials feel that resources provided by the COPS Office were a major contributor to the dramatic drop in crime. Notwithstanding the success of this program, the Bush Administration and Republican Congressional leadership has cut the program drastically each of the last three years.

We also learned, and a vast majority of Americans agree, that military style assault weapons have no place in the neighborhoods where our children play. While all firearms can be deadly, assault weapons provide the ability for criminals to produce unimaginable carnage. In fact, these firearms were specifically designed to kill by providing the ability to rapidly fire numerous rounds. Because of the ban, these weapons have been less available for homicidal individuals and terrorists, and this fact alone ensures that Americans have been safer since the passage of the 1994 Act. And, let's be honest, no American sportsman has missed the opening day of hunting season because he was denied access to an AK-47 or a Tec-9. Although President Bush expressed his support for extending the ban, he has refused to call on Congress to extend the ban. Earlier this month, the Republican leadership sided with the gun lobby and allowed the ban to expire. It has been reported by the Central Intelligence Agency (CIA) that terrorists are actively pursuing assault weapons, and by siding with the NRA, President Bush has made it easier to access these killing tools.

We also learned that any effective crime control package must provide tough penalties for violent offenders and promote programs to prevent crime and reduce recidivism. The goal is simple: prevent crime in the first place, and take a hard-line if a

crime is committed. For example, we created programs to assist state and local officials to help reduce gang membership and reach out to at-risk youth. We provided support for the Boys and Girls Clubs of America, and other programs that have proven successful at keeping young people off the streets and out of trouble. The 1994 Act also expanded prison sentences for certain federal crimes, embraced the three strikes rule, and expanded the list of death penalty eligible crimes. We also provided grants to build prisons and to promote truth-in-sentencing rules when incarcerating state law offenders. In addition, through the landmark Violence Against Women Act (VAWA), we created programs designed to prevent crime and combat violence against women and children. We provided over \$3.8 billion in federal grants to encourage the prosecution of domestic violence, reduce stalking, and support victims of child abuse.

The crime prevention investment paid off, and the American people are dramatically safer because of the steps taken in 1994. These programs helped reduce crime dramatically from the historically high crime rates that had increased exponentially over the last 30 years. In fact, we were able to reduce crime rates for eight consecutive years to a 26 year low. Violent crimes, such as homicides and forcible rapes, fell nearly 40 percent and 20 percent, respectively. Property crimes also fell over 20 percent between 1994 to 2001. We also set the stage for even safer neighborhoods by spreading community policing concepts around the country and by reducing the number of dangerous firearms on the streets.

Unfortunately, we have become a victim of our own success. With crime rates steadily decreasing and the risk of terrorism highlighted, Americans no longer list crime as a significant problem facing our country. President Bush has drastically gutted many of the programs that proved successful in the nineties. Funding for the COPS Office has been gutted. The Local Law Enforcement Block Grant (LLEBG) program – the other major state and local grant program – has been slashed. In fact, funding for state and local law enforcement through the Department of Justice is down 75.6 percent since FY 2002. Additional funding has been made available through new grant programs in the Department of Homeland Security; however, these programs are designed to meet different needs and do very little to ease the burden of local law enforcement agencies.

New surveys have shown that many local agencies are facing officer shortages that are hindering law enforcement efforts. Local government budgets are running in the red, and in this new age of terrorism, we should be putting more officers on the streets instead of cutting them. Officers are working overtime to perform homeland security duties, and many agencies are cutting programs, such as community policing, that proved so effective in reducing crime rates in the past. As a result, many police chiefs are reporting rising gang activity and other troubling trends. In addition, Congress recently let the 10 year ban on assault weapons expire. Unbelievably, at a time when most Americans fear for their safety like never before, the federal government under the leadership of President Bush has adopted an approach that puts more dangerous weapons on the street while taking police off the street. This is exactly the opposite approach that has proven effective over the last 10 years.

The President repeatedly warns us that we are in danger from terrorist attacks. Yet, we continue to hamper the ability of our local officers to be the first line of defense by cutting the programs designed to support them. Let's face it; it will be a local officer who stops an individual on a terrorist watch list for speeding. It will be a local officer who responds to code orange alerts by conducting patrols of our airports, train stations, and other critical buildings. The local officer has the intimate knowledge of the communities they serve that will allow them to uncover a terrorist cell in our midst. And, the local officer will be the first one on the scene in the event of a tragic attack. Nevertheless, the federal government, under the leadership of President Bush, has refused to help communities hire more officers, provide sufficient equipment, and has not provided sufficient assistance to help pay overtime charges for local officers who undertake homeland security duties at the direction of the federal government.

Undoubtedly, homeland security duties are essential, but I fear that our overextended police forces are being forced to abandon efforts to combat traditional street crime. The Federal Bureau of Investigation (FBI) has shifted its resources from bank robberies and drug trafficking to counter-terrorism efforts. This is understandable and expected. However, most Americans are far more likely to become the victim of a traditional crime than an act of terrorism, and state and local law enforcement will be required to fill these gaps. In my view, the number one responsibility of the federal government is public safety for its citizens: this means that we must protect the homeland from terrorists and assist state and local law enforcement in crime control

efforts. We discovered the right approach in the nineties, and we simply cannot abandon this approach. Fortunately, hiring more officers helps reduce street crime and can help in the fight against terrorism. Under the course directed by the Bush Administration, we are undermining both efforts.

BACKGROUND

Due to constant reminders of the threat of terrorism, only the most high-profile criminal cases are currently covered by the media. Although the Scott Peterson murder trial and the Kobe Bryant case are regular cable television fodder, criminal justice issues simply don't seem to resonate with the American people as in previous years. Because of the new focus on terrorism, several commentators have argued that criminal justice will remain a "back-burner" political issue in the coming years.¹ This new paradigm of trying to focus more attention on criminal justice is very different than the landscape of the last 30 years, when the impact of crime on normal Americans, and the government's attempts to fight crime dominated the social and political discourse.

The Republican Approach: Long on Rhetoric, Short on Results

The crime issue has been a centerpiece of partisan politics since the 1960s when Barry Goldwater highlighted criminal justice issues in his 1964 presidential campaign as a response to rising crime rates. Although Goldwater was soundly defeated by President Johnson, his campaign managed to transform crime policy from a local to a national

¹ Eric Lichtblau, *For Voters, Osama Replaces the Common Criminal*, New York Times (July 18, 2004).

issue.² Subsequently, Richard Nixon campaigned as the “law and order” President and since then, or at least until 9/11, crime has remained one of the top domestic policy issues in national politics. The Republican Party maintained the upper-hand of this debate until 1994. Their approach has been to continually preach a simple, consistent message: “Criminals are inherently bad, and we are tough on them.”³ Indeed, Ronald Reagan’s approach was to define crime as an ideological war between good and evil.⁴ As a result, the American people began to believe that there was little that the federal government could do to prevent crime, and therefore a “tougher” approach was the only way to proceed. In fact, the most notorious use of crime policy as a political wedge issue came in the 1988 Presidential election when the Willie Horton⁵ ads were launched to attack Governor Michael Dukakis. Most analysts credit the soft-on-crime charge issued by President George H.W. Bush as a key issue in that election.

While the argument has been effective politically, the substantive results simply haven’t matched the rhetoric. First, federal crimes only make up three percent of all crimes, and, as a result, it is simply impossible to make a substantial impact on crime unless state and local efforts are strongly supported.⁶ In fact, between the late sixties and

² Ted Gest, *Crime and Politics: Big Government’s Erratic Campaign for Law and Order*, Oxford University Press, 5 (2001)[hereinafter, *Gest*].

³ Harry A. Chernoff, Christopher M. Kelly and John R. Kroger, *The Politics of Crime*, 33 Harvard Journal on Legislation (1996).

⁴ Gerald Shargel, *No Mercy: Ronald Reagan’s Tough Legal Legacy*, Slate (June 14, 2004) available at <http://slate.msn.com/id/2102352/>.

⁵ Willie Horton, an African-American, serving time in a Massachusetts prison, was released on a weekend furlough while Michael Dukakis served as Massachusetts Governor. During that weekend, he traveled to Maryland and committed several crimes. The Bush campaign used this incident in campaign ads to argue that Dukakis was soft on crime, and the Dukakis campaign was unable to blunt this criticism.

⁶ Although the Law Enforcement Assistance Administration (LEAA) was utilized to support state and local efforts, it did not achieve any significant results. This program began during the Lyndon Johnson administration as the Office of Law Enforcement Assistance and was initially given approximately \$7 million to distribute to state and local agencies. Over the years, bureaucratic infighting and pork-barrel

early nineties crime rates rose an astonishing 60 percent to a level where for every 20 U.S. residents there was one criminal act. During the same time the rate of violent crimes such as aggravated assault, forcible rape, and robbery increased 139.1 percent, and most troubling the murder rate rose 30 percent.⁷ Moreover, the steps taken during the Reagan/Bush years did little to decrease crime rates. This ineffective approach left crime rates at an unbearably high level, and many Americans began to believe that high crime was simply a fact of life. Although some important steps were taken during the eighties, we did not invest in our state and local partners, did not place enough emphasis on crime prevention and reducing recidivism, and, ultimately, did not achieve the desired result of reducing crime.

By forging a consensus amongst moderates on both sides of the aisle, there were some notable policy achievements in the eighties. We were able to enhance Washington's role in coordinating a coherent national drug policy through the creation of the Drug Czar's office; we enacted the sentencing guidelines to help ensure sentencing parity by judges, and we saved some critical programs, such as the Office of Juvenile Justice and Delinquency Program (OJJDP), from the budget axe. Unfortunately, these efforts did not produce a dramatic decrease in crime rates. Moreover, the trend of federalizing many local crimes had little impact. The bottom line is that despite the best efforts of federal, state, and local law enforcement officials, the approach taken by the federal government simply didn't give them the right tools and financial assistance to

spending minimized its impact, and the program was ultimately eliminated, ironically, during the Carter Administration.

⁷ *Crime Rates by Type of Offense: 1960 to 2002*, U.S. Census Bureau, Statistical Abstract of the United States: 2003, No. HS-23 (2003) available at <http://www.census.gov/statab/hist/HS-23.pdf>.

sufficiently tackle the crime problem in America. The frustration of the eighties led many of my colleagues to agree with me that a new approach was needed.

The Grass Roots Rise of Community Oriented Policing

During the preceding decade, more proactive theories of crime fighting began to be revisited. Many local agencies began to explore the concept of “problem-oriented” policing, whereby officers would analyze crime trends and work with citizens to prevent crime. Instead of reacting to crime after-the-fact, officers worked to reduce the underlying problems that caused crime to prevent it from happening in the first instance. Similarly, the “broken windows” theory of law enforcement began to be utilized with great success. “Broken windows” is a metaphor for crime policy that relates the failure to fix structural problems in a building, such as the windows, to the failure to fix problems in society. In short, the theory is that if a window is broken in a building and no one fixes it, people will begin to assume that no one cares about the building. This will ultimately lead to further damage being done to the building.

Similarly, disorderly conditions and criminal behaviors left untended in our communities are signs that nobody cares, and the failure to address these small problems will ultimately lead to more serious crime, abandonment of neighborhoods to criminals, and urban decay. In other words, all crimes, even minor ones, warrant serious attention. Many on the right and on the left have misinterpreted this theory to support their ideology,⁸ but at its basic level, the theory supports the notion that crime can be prevented through proactive policing. Through community interaction, officers can

⁸ Staunch conservatives have used the theory to justify sweeps of low-income neighborhoods to arrest numerous individuals for minor offenses; whereas, more liberal observers have used the theory to support the idea that crime comes from the “root-cause” of poverty, despair, and other societal factors.

establish thresholds of behavior; establish that they are serious about enforcing those standards; and establish that they will enforce them if violated. In other words, effective communication can help prevent crimes, which is the ultimate goal. Moreover, communication efforts are not are not add-on functions, rather they are a core responsibility of policing.⁹ Of course, if a crime is committed then the response should be strong and swift.

Drawing from, and in conjunction with, these theories of crime policy, community policing efforts began to be implemented by local agencies in various communities around the nation. Community policing had been utilized in the first part of the century, however, it fell out of favor in the 1940's as agencies began to adopt a military-style policing model, in which heavily armed officers rode in vehicles rather than walking the streets. This approach created a divide between the officer and the community. Fortunately, community policing began to be tested again in the 1980's, and these efforts, such as the one utilized to clean up the New York City subway system, were very successful. As a result, crime policy experts and interested legislators in Washington, DC began to take notice. The Republican Party did not support these efforts, having determined that hiring more law enforcement officers was a purely local function rather than an effective crime control measure to be expected from the federal government. At same time that I was pushing for 50,000 new officers in the Senate, the first Bush Administration was dismissing the concept entirely. For example, a 1992 crime report by the Department of Justice provided 24 recommendations for combating

⁹ *Perspectives on Crime and Justice: 1997-1998 Lecture Series, Volume II*, National Institute of Justice (November 1998) available at <http://www.ncjrs.org/pdffiles/172851.pdf>.

violent crime. Community policing was not even listed among these recommendations.¹⁰ It has been reported that community policing was number 25 on the original list of recommendations, but it was removed because it sounded like “social work” rather than effective crime fighting.

A New Approach: 100,000 New Community Policing Officers

During the 1992 Presidential election, Governor Bill Clinton endorsed my efforts in the Senate and began to campaign on the platform of adding community policing officers to help fight crime in our nation’s communities. Working with members of my staff, the Clinton campaign settled upon the idea of adding 100,000 officers. We settled on this number because it would increase the existing state and local police force by 20 percent, it was affordable, and it would give us a good chance to really impact crime rates. The proposal was announced at a speech by Governor Clinton in Houston, Texas, and it was met with widespread approval amongst law enforcement personnel. In fact, Governor Clinton was ultimately able to secure the endorsement of one of the major law enforcement groups in the nation, the National Association of Police Organizations (NAPO). NAPO, which represents over 236,000 sworn law enforcement officers, had endorsed President Reagan and President George H. W. Bush during his first election; however, the group strongly objected to cuts made by President Bush to local law enforcement programs and supported much Clinton’s crime control agenda, particularly the proposal to fund 100,000 new officers. This endorsement helped President Clinton win the election and set the stage for the legislative battle to enact the 1994 Act.

¹⁰ Gest *Supra* Note 2, at 168.

THE LEGISLATIVE BATTLE

After the 1992 election, the Democratic Party had control, however briefly, of all three branches of government for the first time in many years. President Clinton had campaigned on a crime agenda, and I had been working to form a middle-ground on crime policy for the last several years. This confluence of events gave the Democratic Party its first real chance to promote its ideas of effective crime prevention. For too long, issues such as *habeas corpus* reform and debates about the *Miranda* rule had been used to divide the Democratic Party. These are difficult, divisive issues, and, although extremely important, they don't focus on crime prevention. During the contentious debate over the 1994 Act we were able to form a consensus on many critical measures. We agreed to strengthen many provisions of federal law; we provided new funding for new prison construction; and we provided new funding to promote the use of state truth-in-sentencing laws. More importantly, we were able to push through the centerpiece of the 1994 Act – funding for 100,000 new community policing officers and increased investment in other crime prevention plans.

Although a majority of legislators agreed on many key provisions of the 1994 Act, forming a consensus and getting it passed was not easy. It is simply the nature of our two-party, bi-cameral system that sweeping changes are difficult to achieve. Many members have legitimate philosophical differences on various issues, which can stall comprehensive packages. Moreover, many politicians would rather block important legislation if it is perceived that the other side will get political credit. While both parties are guilty of this short-sighted approach from time-to-time, the 1994 debate demonstrated

this troubling characteristic within many members of the Republican Party. Many Republicans simply did not want to cede the issue of crime policy to the Democrats, and because the Democratic Party controlled Congress and the White House, the perception was that Democrats would get credit for any bill, even if it contained many provisions important to conservative lawmakers. Indeed, pollsters had determined that proposals combining prevention and punishment resonated with the American people.

As a result, the debate remained contentious throughout the summer of 1994. Instead of giving a substantive victory to the Democrats prior to the mid-term elections, many Republican lawmakers worked to defeat the 1994 Act even though it contained many Republican-inspired provisions. Several Republican lawmakers argued that the Democrats had used the crime bill as a wedge to enact more social programs. For example, funding assistance for drug rehabilitation programs, funding for youth violence prevention programs, and funding for youth employment programs were each derided as wasteful, ill-advised social spending. Many Republicans charged that the bill was a “twofer”: a Democratic fiscal stimulus package and anticrime legislation.¹¹

The Democratic leadership countered that the bill was carefully balanced between punishment and prevention. Moreover, we had created a mechanism to pay for the Act without increasing the deficit – the Violent Crime Reduction Trust Fund (VCRTF). The Clinton Administration had been pushing for a federal workforce reduction of 250,000 over the next five years, and through the course of the debate over the 1994 Act we

¹¹ Harvey Berkman, *Crime Bill Critics Deride Spending*, The National Law Journal (August 8, 1994) at A12.

decided that these savings should be placed in the VCRTF to be used exclusively for programs authorized by the 1994 Act. These types of trust funds are not popular with appropriators because they tie Congress's hands during subsequent years. However, we were able to convince members of the Appropriations Committee to go along with the VCRTF in order to demonstrate a long-term commitment to fighting crime. An added bonus was that the VCRTF helped to blunt the typical "tax and spend" criticisms that are used to defeat progressive, forward-thinking legislation.

Another contentious provision of the 1994 Act was the inclusion of a 10-year ban on specific assault weapons. Even during periods of rising crime rates, any common-sense regulation of guns is typically off-limits in Washington, DC. Assault weapons are specifically designed to kill people and serve no purpose for the ordinary sportsman; however, the gun lobby is so strong in Washington that it was very difficult to get this provision included, and it almost derailed the bill in its entirety on several occasions. Indeed, the National Rifle Association (NRA) tried to kill the provision throughout the summer of 1994. Ultimately, Congress stood up to the NRA at long last and the assault weapons ban was passed. Unfortunately, President Bush failed to stand up to the same interests and refused to extend the ban even though terrorists are actively seeking these military-style weapons.

After the political battles were fought, and it appeared that the Democrats had the votes to pass the 1994 Crime Act into law, a few Republican members lifted their opposition and ultimately voted for the measure. This pragmatic move on their part was

the result of several factors. First, most experts believed that the bill represented a well-balanced approach and could really impact crime in the United States. Indeed, I argued prior to the final vote that it was one of the most critical pieces of legislation to come before the Senate in 22 years. For example, I stated on the Senate floor:

I will vote for this bill, because, as much as anything I have ever voted on in 22 years in the U.S. Senate, I truly believe that passage of this legislation will make a difference in the lives of the American people. I believe with every fiber in my being that if this bill passes, fewer people will be murdered, fewer people will be victims, fewer women will be senselessly beaten, fewer people will continue on the drug path, and fewer children will become criminals.¹²

Moreover, the bill was overwhelmingly supported by the public, and the state and local law enforcement community enthusiastically supported its passage.¹³ In addition, mayors, county executives, prosecutors, police chiefs, and victims groups all supported the legislation. In the end, the well-balanced, bipartisan approach that we took won the day, and the bill was passed by role of 61 to 38 and enacted into law in September of 1994.

THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

The 1994 Act, as finally passed, represented the most comprehensive crime bill in the history of the nation. While the COPS program has received the most attention over the last 10 years, the 1994 Act was a very comprehensive piece of legislation enhancing

¹² *Violent Crime Control and Law Enforcement Act of 1994 Conference Report*, 103rd Cong. (1994) (Statement of Senator Joseph Biden) available at <http://www.congress.gov/cgi-lis/query/C?r103:/temp/~r103QvTWOK>.

¹³ The following groups devoted specifically to law enforcement issues supported the bill: Fraternal Order of Police, National Association of Police Organizations, International Brotherhood of Police Officers, National Sheriff's Association, International Association of Police Chiefs, National Organization of Black Law Enforcement Executives, National Troopers Coalition, Major Cities Chiefs, International Union of Police Associations, Police Foundation, Police Executive Research Forum, Federal Law Enforcement Officers Association, National District Attorney's Association, and the National Association of Attorneys General.

authorities in many substantive areas. For example, the 1994 Act strengthened our ability to deal with illegal immigrants, prevent fraud against the elderly, combat gang violence, and prevent other emerging crime trends at the time. In addition, it created new programs to protect women and children.

Some of the major provisions of the bill include:¹⁴

Substantive Criminal Provisions

- *Assault Weapons*: Banned the manufacture of 19 military style assault weapons, assault weapons with specific combat features, “copy cat” models, and certain high-capacity ammunition magazines of more than 10 rounds.
- *Death Penalty*: Expanded the federal death penalty to cover 60 offenses, including terrorist homicides, murder of a Federal law enforcement official, large scale drug trafficking, drive-by-shootings resulting in death, and carjackings resulting in death.
- *Domestic Abusers and Firearms*: Prohibited firearm sales to and possession by persons subject to family violence restraining orders.
- *Fraud*: Created new insurance and telemarketing fraud categories. Provides special sentencing enhancement for fraud crimes committed against the elderly.
- *Gang Crimes*: Provided new and stiffer penalties for violent and drug trafficking crimes committed by gang members.
- *Registration of Sexually Violent Offenders*: Required states to enact statutes or regulations that require those determined to be sexually violent predators or who are convicted of sexually violent offenses to register with appropriate state law enforcement agencies for 10 years after their release from prison.
- *Three strikes*: Mandatory life imprisonment without the possibility of parole for Federal offenders for three or more convictions for serious violent felonies or drug trafficking crimes.

¹⁴ Violent Crime Control and Law Enforcement Act of 1994, U.S. Department Fact Sheet (1994) available at <http://ncjrs.org/textfiles/billfs.txt>.

- *Victims of Crime*: Allows victims of Federal violent and sex crimes to speak at the sentencing of their assailants. Strengthens requirements for sex offenders and child molesters to pay restitution to their victims.

Immigration Initiatives

- Enhanced penalties for failure to depart the United States after a deportation order or after reentry after deportation.
- Expedited deportation for aliens who are not lawful permanent residents and who are convicted of aggravated felonies.
- Statutory authority for abused spouses and spouses with abused children to petition for permanent residency or suspension of deportation.

Grant Programs

- *Community Policing*: Competitive grant program (COPS) to put 100,000 law enforcement officers on the street.
- *Byrne Grants*: Formula grant program for states for specific law enforcement purposes, including drug task forces.
- *Boot Camps*: Formula and Competitive grant program for state correction agencies to build and operate correctional facilities, including boot camps and other alternatives, to insure that additional space will be available to place – and keep – violent offenders. 50 percent to be set aside for states adopting truth-in-sentencing laws.
- *Drug Courts*: Competitive grant program to support state and local drug courts that provide supervision and specialized services for offenders who can be rehabilitated.
- *Violence Against Women*: Formula grants to support the efforts of law enforcement officers and prosecutors in cases involving sexual violence or spousal abuse.
- *Battered Women Shelters*: Competitive grant program administered by the Department of Health and Human Services for battered women shelters and other domestic violence prevention activities.
- *Delinquent and At-risk Youth*: Competitive grant program for public or private non-profits organizations that support and develop projects that provide residential services to children who have dropped out of school.

- *DNA Analysis*: Competitive grant program for states and localities to develop or improve DNA identification capabilities.

THE RESULT: REDUCING CRIME RATES TO THE LOWEST LEVELS IN A GENERATION

The simple fact that crime policy was not an issue in the 2000 election nor has it been an issue in the 2004 election demonstrates the success of the policies adopted in the 1994 Act. Through the investment we made in our state and local law enforcement partners, we were able to reduce crime rates from historic highs to the lowest levels in a generation. Indeed, we reduced crime rates for eight consecutive years, including a reduction of the murder rate by 37.8 percent, a reduction of forcible rapes by 19.1 percent, and a reduction of aggravated assaults by 25.5 percent. While the numbers demonstrate the dramatic impact that we had on crime in the United States, it is important to remember that the change in percentage rates represents a real, significant impact to the lives of real people. For example, there were 2,140,494 less criminal acts and 7,350 less murders in 2001 than there were in 1994, the year the Act was passed. Improving the lives of American citizens was the purpose of this legislation, and by that standard, the 1994 Act has been a tremendous success.

The Assault Weapons Ban

The 1994 Act included a provision to ban certain assault weapons for a period of 10 years. According to the Bureau of Alcohol, Tobacco, and Firearms (ATF), assault weapons “were designed for rapid fire, close quarter shooting at human beings. That is why they were put together the way they were. You will not find these guns in a duck

blind or at the Olympics. They are mass produced mayhem.”¹⁵ Assault weapons were used in several mass killings in the eighties, and this led to an import ban being passed during the first Bush Administration for all assault weapons not suitable for sporting purposes. The 1994 Act built on this by making it unlawful to manufacture, transfer, or possess a semiautomatic assault weapon and large capacity magazines. The ban included such notorious weapons as the AK-47, Uzi, Colt AR-15, and Street Sweeper. However, the law included a grandfather clause for weapons legally possessed prior to the effective date of the ban, and the ban also specifically exempted over 250 sporting rifles.

As a result of this ban, we have seen a steady decline in the availability of these guns to be used in crimes. For example, a study by the Brady Center to Prevent Gun Violence (Brady Institute) found that assault weapons made up only 1.61 percent of the guns ATF has traced to a crime after the ban was enacted. This represented a 66 percent drop from pre-ban rates, and based upon these rates, the Brady Institute has estimated that over 60,000 less assault weapons have been traced to crimes over the 10 year period.¹⁶ In addition, the National Institute of Justice (NIJ) found that the ban may have contributed to a reduction in the gun murder rates and murder of police officers by criminals armed with assault weapons.

Military-style assault weapons do not belong on the streets of America's communities. This is a sentiment expressed by over three-fourths of the American people and two-thirds of gun owners. Every major law enforcement agency in the nation supports renewing the assault weapons ban. Moreover, President Bush has expressed his

¹⁵ *Assault Weapons Profile*, Bureau of Alcohol, Tobacco, and Firearms (1994) at 20.

¹⁶ *The Impact of the 1994 Federal Assault Weapons Act*, Brady Center to Prevent Gun Violence (2004).

support for a renewal of the ban, indicating that he would sign a bill if it reached his desk. Nevertheless, he did not push for the legislation, and the Congressional leadership never scheduled a vote. As a result, the ban expired at midnight on September 13, 2004. Murder rates are rising and al Qaeda manuals have directed operatives to obtain assault weapons in the United States. Nevertheless, the President sided with the NRA, and his silence contributed to the ban's expiration. Today, these dangerous weapons are available for any would-be murderer or terrorist who shows up at any gun show throughout the country.

Critical Crime Prevention Programs

One of the principal focuses of the 1994 Act was to address pervasive crime problems and to focus on prevention. The Violence Against Women Act (VAWA),¹⁷ which was enacted as part of the 1994 Act, has been tremendously successful in reducing incidents of crime against women. Prior to VAWA, domestic violence and sexual assault incidents were often marginalized and ignored by society and the criminal justice system as “private” family matters. We wanted to address this approach, and based upon the opinions of experts and criminal justice practitioners, we crafted VAWA to fill in the gaps and to create an innovative, multi-pronged, coordinated community response to domestic violence and sexual assault. The approach that we took included strengthening penalties and investing in innovative prevention programs.

The approach that we took is working. We’ve been able to reduce incidents of domestic violence by nearly 50 percent. Incidents of rape have fallen 60 percent, and

¹⁷ I recently published a comprehensive report on the 10 year history of the Violence Against Women Act. It is available at <http://biden.senate.gov/>.

more than half of all rape victims are stepping forward to report the crime. The number of women killed by an abusive husband or boyfriend is down by 22 percent. Moreover, VAWA has expanded the focus of violence against women at the state and local level. Over 660 new state laws have been passed that address domestic violence, sexual assault, or stalking, and over one million women have been able to obtain domestic violence protective orders, which may have been denied them prior to VAWA.

The Office of Community Oriented Policing Service: Efficient and Effective

The creation of the COPS office was the centerpiece of the 1994 Act. This program has helped to fund over 118,000 community policing officers, and by changing the incentives for the departments receiving COPS grants we were able to positively impact police attitudes regarding community policing. While the concept of community policing did not begin with the creation of the COPS Office, the office has helped to expand this idea throughout the nation. Indeed, this new model has become gospel for law enforcement management and anticrime programs. According to Attorney General Ashcroft, the COPS program has been a “miraculous success. It is one of those things that Congress hopes will happen when it sets up a program.”¹⁸

The COPS Office has Added over 100,000 Officers to the Streets

We said in 1994 that we would put 100,000 new law enforcement officers on the streets. And, the COPS Office got to work quickly to get them out there. Within one month of passage, the COPS Office was created within the Department of Justice to

¹⁸ *President Bush 2003 Budget Request, Hearing Before the Subcommittee on Commerce, Justice, State and the Judiciary United States Committee on Appropriations, Judiciary*, 108th Cong. (January 17, 2003) [statement of Attorney General John Ashcroft].

administer the grants. The creation of a new office was necessary because we wanted to ensure compliance with the constraints of the grants, but we also wanted to reduce the bureaucratic red-tape that could stifle the effectiveness of the grants. The system was very effective, and the COPS Office has stayed ahead of schedule and under-budget for the bulk of its existence. Indeed, the COPS Office succeeded in processing more than 10,000 grant awards in its first four months. Today, 118,000 officers have been funded, and according to the Justice Department's own performance evaluation, over 94,000 of those law enforcement officers are on the streets today.¹⁹

Summary of COPS Grants per State as of 9/9/04			
State	Sum of Total Award	Total Officers Funded	Number of Agencies
AK	\$59,012,734	325.1	110
AL	\$136,994,295	1878	347
AR	\$94,488,561	1314.2	300
AS	\$1,280,538	40	1
AZ	\$240,536,979	2704.4	130
CA	\$1,229,926,443	15800.7	540
CO	\$93,348,218	1289.4	186
CT	\$89,354,965	1311.4	122
DC	\$86,734,701	819.2	19
DE	\$27,704,813	464.7	39
FL	\$511,652,578	7472.5	323
GA	\$159,895,521	2525.7	356
GU	\$8,220,057	100	1
HI	\$32,847,025	521.6	8
IA	\$69,690,140	745.7	244
ID	\$32,688,546	404.7	89
IL	\$415,682,442	5854.2	677
IN	\$119,783,719	1592.4	279

¹⁹ Many critics argue that any discrepancy between “funded” officers and those on the streets indicate mismanagement, waste, or fraud. This argument fails to recognize that it typically takes 12-18 months to hire and train a new officer. Prior to hiring officers, law enforcement agencies simply must perform adequate screening of candidates and fully train them before sending them out into local neighborhoods.

KS	\$76,503,168	897.4	179
KY	\$113,102,199	1400.9	289
LA	\$129,270,141	2098.5	223
MA	\$214,542,070	3030.8	351
MD	\$203,194,343	2519.3	108
ME	\$39,816,748	389.7	113
MI	\$215,920,501	3371.3	514
MN	\$118,629,172	1425.3	365
MO	\$167,610,866	2305.8	457
MP	\$3,979,315	65	1
MS	\$113,595,399	1721.6	305
MT	\$60,361,330	395.2	97
NC	\$169,121,454	2934.1	356
ND	\$24,124,159	271.5	72
NE	\$55,212,400	705.4	102
NH	\$68,353,963	525.2	151
NJ	\$344,342,459	4806	464
NM	\$67,831,806	779.7	108
NV	\$48,649,781	436.4	58
NY	\$894,591,874	11930.4	399
OH	\$270,544,731	3757.2	644
OK	\$86,480,461	1058.8	329
OR	\$98,958,520	1035.2	171
PA	\$237,549,740	3561.2	696
PR	\$158,035,000	3757.8	76
RI	\$28,534,704	396.3	42
SC	\$94,122,804	1119.1	202
SD	\$61,372,203	395.3	111
TN	\$165,359,995	2350.7	271
TX	\$448,088,784	6124	793
UT	\$94,502,713	1001	122
VA	\$270,173,605	2460.9	240
VI	\$17,146,955	171.6	1
VT	\$30,575,639	262.6	64
WA	\$179,259,643	1982.1	253
WI	\$112,614,728	1347.2	383
WV	\$ 40,485,992	692.5	166
WY	\$10,142,526	137.1	48

Expanding Community Policing Throughout the Nation

Expanding community policing throughout the nation was another primary goal of the COPS program. Basically, the theory of community policing is that by taking cops

out of their squad cars and requiring them to engage with citizens in the communities they patrol, law enforcement officers get to know the residents and begin to build a bond of trust between local police and the residents. This, in turn, creates a climate where neighborhood residents partner with law enforcement, not only providing them with valuable information about criminal activity in their neighborhood, but restoring overall confidence in the criminal justice system. Community policing had proved successful in many local communities, and a primary goal of the COPS program was to promote this approach nationwide.

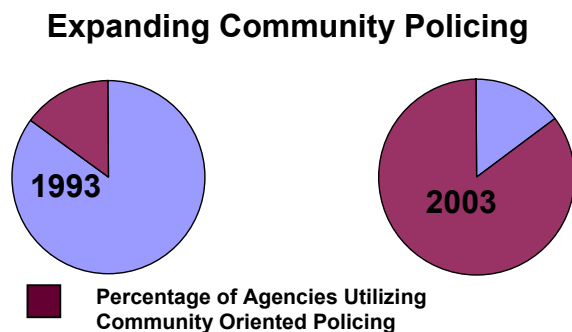
A study by the Urban Institute demonstrated that the COPS Office achieved its goal of expanding community policing. The report, *The COPS Program After 4 Years - A National Evaluation*²⁰ was commissioned by the National Institute of Justice (NIJ) under its policing research program, and it concluded that the COPS program had a “broad national impact” on the levels and styles of policing throughout the nation. Moreover, the report concluded that the COPS Office spurred “significant support for the adoption of community policing around the country.” Some of the reports key findings:

- *Advancing community policing* – COPS provided significant support for the adoption of community policing goals around the country.
- *Targeted at crime* – COPS resources went where they were most needed: high crime areas. More than half of eligible law enforcement agencies, many of them in small jurisdictions, received at least one COPS grant by the end of 1997. Many large jurisdictions with serious crime problems requested and received multiple grants. Through 1997, the one percent of COPS grantees with the highest murder counts received 31 percent of all funds awarded.

²⁰Jeffery A. Roth and Joseph F. Ryan, *The COPS Program After Four Years – A National Evaluation*, National Institute of Justice (August 2000) available at http://www.urban.org/pdfs/COPS_fullreport.pdf.

- *Proactive problem solving* – Proactive crime prevention and problem-solving spread rapidly among COPS grantees. COPS grantees are significantly more likely than non-grantees to report launching crime prevention partnerships with businesses, take community surveys, and bring probation officers and community residents into problem solving initiatives. COPS grantees are more likely than others to report launching victim assistance programs.

The Justice Department's own research supports the conclusions reached by the Urban Institute. In January 2001, the Bureau of Justice Statistics (BJS) published a report showing that the number of officers practicing community policing rose from 22,000 in 1997 to 113,000 in 1999. Today, more than 86 percent of the nation is served by a law enforcement agency that practices community policing, compared with 15 percent in 1993.



More Cops Equals Less Crime

Hiring new officers and expanding the concept of community policing are simply tools to reduce crime rates. If Americans are not safer in their communities, increased bureaucratic efficiency and criminal justice theories are hollow measures of success. Indeed, the goal of the 1994 Crime Act was to reduce the unbearable crime rates and the impact that they have had on the American public. Not even the most ardent supporter of the COPS program would argue that it was the sole reason for the historic drop in crime, but to argue that the COPS program had nothing to do with the success defies common

sense. First, classic deterrent theory teaches us that an officer's presence would reduce crime. Moreover, most law enforcement practitioners agree that more officers deters crime, and the expansion of community oriented policing has helped to improve local trouble spots, which has helped reduce crime. Of course, societal factors contribute to crime rates; however, in contrast to these other factors, the Federal government can directly and dramatically impact the number of cops patrolling our neighborhoods. This fact alone speaks volumes about the essential nature of the COPS Office as we move forward.

Notwithstanding repeated attempts to eliminate the program, it appears that, at least rhetorically, the program's success is a bipartisan conclusion. Even by Attorney General Ashcroft's standards the program has been effective. For example, General Ashcroft stated that, "[s]ince law enforcement agencies began partnering with citizens through community policing, we've seen significant drops in crime rates." Moreover, COPS has "demonstrated the fact that hiring more people makes a difference in the quality of life and the level of crime." One of the Attorney General's chief deputies concurred by stating before the Senate Judiciary Committee that "I think it is undoubted that more police officers on the street deter more crime, and, therefore, it would lessen social cost to the local communities and our overall society."²¹

The local law enforcement community remains unanimous in its support for the COPS program. The efforts of these groups were a prime reason we were able to

²¹ *Making America's Streets Safer: The Future of the COPS Program Hearing Before the Subcommittee on Crime and Drugs of the Committee on the United States Judiciary*, 107th Cong. (December 5, 2001) [hereinafter, COPS Hearing].

overcome the politics-as-usual approach in Washington and get the 1994 Act passed into law. The national law enforcement groups are very well respected in Washington, DC, and I value their judgments very highly. Indeed, these individuals and those they represent are the ones who are out there on the streets fighting crime on a daily basis. These men and women have dedicated their lives to making America safer, and their opinions matter. If they tell Washington leaders that the COPS program works, no additional proof, in my opinion, is required.

Over the years, I have introduced legislation to re-authorize the COPS program and to provide funding for 50,000 additional community policing officers. Understanding the importance of the program, the law enforcement groups have been unanimous in their support. A sample of the letters I've received over the years, include:

“NAPO was happy to work tirelessly with you in 1994 to pass the Violent Crime Control and Law Enforcement Act and to date, the COPS Program has funded over 118,000 community policing officers in 11,300 communities and countless resources including enhanced crime fighting technology, equipment and the development of innovative partnerships with communities to fight crime.

State and Local Law enforcement is faced with a perfect storm as they assume more duties each day to protect communities against terrorist threats, continue to fight against crime and endure growing budget constraints. It is NAPO's opinion that the initiative to put more cops on the street to promote community policing and fight crime should be continued, and that the steady decline of violent crime over the last decade is evidence of the success of this program. In a time when heightened terrorist alerts threaten citizens and city budget coffers alike, funds to assist law enforcement to combat terrorist threats should not be curtailed.

William J. Johnson, Executive Director of the National Association of Police Organizations, Letter to Senator Joseph R. Biden, Jr. (September 2, 2004)

“On behalf of the entire membership of the International Brotherhood of Police Officers, I want to thank you for introducing legislation to reauthorize the Community Oriented Policing Services program. As the author of the 1994 Crime Bill you understand the significance of the COPS program. Every crime statistic available shows that America is a safer place to live since we implemented the COPS program.”

International Brotherhood of Police Officers, letter to Senator Joseph R. Biden Jr. (April, 4, 2001)

“Sheriffs around the nation depend on the COPS program to supplement their law enforcement capabilities. Sheriffs need the additional funding provided so that they can better protect and serve their communities. The COPS program has been an overwhelming success and has had a tangible and positive impact on crime reduction.”

National Sheriffs’ Association, letter to Senator Joseph R. Biden Jr. (May 5, 2001)

“I am proud to endorse the new COPS bill. Your bill will provide the funds and the incentive for our communities to remain on the leading edge of providing public safety for our society.”

International Union of Police Associations, letter to Senator Joseph R. Biden Jr. (May 25, 2001)

“The COPS program has been a highly successful crime-fighting initiative. I wish to express our continued support of your plans to adequately fund and reauthorize the COPS Office and its many critical programs.”

Police Executive Research Forum, letter to Senator Joseph R. Biden Jr. (May 4, 2001)

“Since its inception in 1994, the COPS program has been very successful in helping law enforcement agencies throughout the nation reduce crime rates and maintain safer communities. The IACP strongly believes that we must build upon these accomplishments and ensure that state and local law enforcement agencies continue to receive the valuable assistance that the COPS program has provided over the last five years. The IACP believes that [S. 924] will help ensure that state and local law enforcement agencies continue to have the resources necessary to effectively combat crime. We urge you to become a cosponsor of this vital legislation.”

International Association of Chiefs of Police, letter to Senators (April 4, 2001)

Statistical Evidence of COPS Impact on Crime Rates

In addition to the support of local law enforcement officials and the abundant anecdotal evidence, a recent study of jurisdictions across the nation found a causal link between the COPS grants and reduced crime rates. In December 2001, the University of Nebraska published *A National Evaluation of the Effect of COPS Grants on Crime From 1994 to 1999* (Nebraska Study). The authors analyzed the impact of COPS grants in 6,100 cities across the nation, and they found that more officers result in less crime. The study, the most comprehensive to date, was published in *Criminology and Public Policy*, a well-respected law journal sponsored by the American Society of Criminology. In order to gain admittance into this journal, the study was subjected to an extensive peer review process, which speaks to the soundness of the methodology taken by the authors. Some of the studies key findings:

- *More Cops Means Less Crime* – COPS hiring initiatives have resulted in significant reductions in local crime rates.
- *Less Crime in Cities* – In cities with populations greater than 10,000, an increase in one dollar of COPS hiring grants per resident contributed to a corresponding decline of 5.26 violent crimes and 21.63 property crimes per 100,000 residents.
- *Crime Drops Across the Board* – COPS programs like COPS in Schools, the COPS Distressed Neighborhood Program, and the COPS Youth Firearms Violence Initiative led to even greater crime drops: an increase in one dollar of such funding per resident has contributed to a decline of 12.26 violent crimes and 43.85 property crimes per 100,000 residents.

Notwithstanding the dramatic crime reduction since the creation of the COPS program and the acceptance of the Nebraska Study by the general criminal justice community, many conservative think-tanks have tried to continually discredit this program. These criticisms began in the formative years of the idea, and it has continued to this day. Indeed, a representative of a conservative group stated that COPS “qualifies as a program that is wasteful, ineffective, and *is not providing services that are the responsibility of the federal government.*”²² While some criticism of the program may be legitimate, I believe that the last part of this statement demonstrates the fundamental position of the COPS program by many conservative groups and lawmakers. Many conservatives simply believe that ensuring public safety is a state and local responsibility. To them, ideology trumps safety, and I think that is very shortsighted and dangerous. Incidentally, I believe that this ideological approach is a primary reason that the Bush administration is under-funding critical homeland security needs, such as railroads, ports, chemical plants, and other critical assets. Many conservatives simply believe that this is not a federal responsibility and that state and local governments or the free-market will provide sufficient security safeguards. I disagree. It is my belief that the federal government bears a critical responsibility for the safety of our citizens whether the threat is the local thug down the street or an international terrorist.

THE BUSH APPROACH: ABANDONING THE LESSONS LEARNED

Since President Bush took office, his Administration has actively pursued policies contrary to the lessons learned over the past decade. During the nineties, we learned that

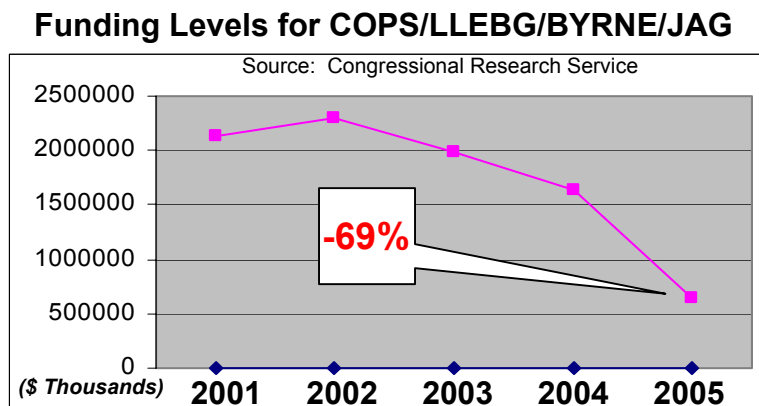
²² COPS Hearing, *Supra* Note 21 (statement of David Muhlhausen).

balancing prevention measures with tough punitive measures helps reduce crime. In addition, we created an effective, efficient method of getting funds in the hands of our state and local officials – the COPS Office. This office helped put more officers on the street and helped expand the concept of community policing to help make our streets safer and to prevent criminal acts before they happen. Through smart, targeted investment of federal resources, we learned that we can have a dramatic impact on would-be criminals and at-risk youth. Not only does this investment help those individuals who may lose their way, it also helps many innocent victims who would be the target of their misdeeds. Despite the successes of the nineties, President Bush has demonstrated disdain for the approach adopted. Whether the reason is ideological, political, or substantive, President Bush has tried to cut basically every program established in the 1994 Act since his term began. According to many law enforcement experts, de-funding these programs, combined with budget deficits at the state and local level, has resulted in the elimination of successful crime prevention programs. As a result, we are beginning to see troubling crime trends and increased gang activity.

Slashing Funding Assistance for State and Local Law Enforcement

Funding for programs designed to assist state and local law enforcement, and COPS in particular, have received steadily less federal support under the leadership of President Bush. For example, the President's very first budget submission eliminated nearly all funding for hiring local officers under the COPS program, and reduced overall funding for state and local law enforcement by over \$300 million. This is a trend that has continued. Funding has steadily declined for Department of Justice programs designed to

assist state and local law enforcement from a high of \$2.1 billion in fiscal year 2001 to a proposed level of \$643 million in FY 2005. This is a reduction of nearly \$1.4 billion or nearly 70 percent. The cuts to the COPS program have been even more pronounced, from an \$855 million request in FY 2002 to \$97 million in FY 2005. Indeed, the International Association of Chiefs of Police (IACP) has concluded that the President's 2005 budget, if enacted, would "threaten law enforcement's ability to protect communities."²³



Fighting to Save State and Local Assistance Programs

During the fall of 2001, rumors were circulating that the President would cut assistance to state and local law enforcement, including the elimination of the COPS program. In addition, the Federal Bureau of Investigation (FBI) was discussing the permanent redeployment of their agents from street crime investigations to terrorism activities, thus creating a gap that state and local law enforcement would be required to fill. Finally, the economic downturn was impacting the ability of local governments to provide essential services, and I was concerned (and ultimately proven correct) that the

²³ *Impact of the Proposed FY 2005 Budget on State and Local Law Enforcement Assistance Programs, An Analysis by the International Association of Chiefs of Police*, The International Association of Chiefs of Police (2004) available at <http://www.theiacp.org/documents/pdfs/WhatsNew/ACFA0D3%2Epdf> [hereinafter IACP Report].

first to go would be law enforcement personnel. I thought that the proposal to eliminate COPS was a huge mistake, and I immediately called a hearing before the Senate Subcommittee on Crime and Drugs. The hearing was entitled “Making America’s Streets Safer: The Future of the COPS Program,” and it was held to address the precarious future of the COPS program under President Bush. At the hearing, Assistant Attorney General Viet Dinh stated that “the President through his budget proposal has indicated a shift in funding priorities from the previous administration for COPS. . . . but, let me repeat the objective remains the same. We want to create, maintain, and cement an effective partnership with state and local law enforcement through programs like COPS.”²⁴ Contrary to this and other public statements, the President has essentially gutted state and local law enforcement assistance programs – including COPS.

At the time, Democrats had control of the United States Senate, and that, together with the searing memory of the 9/11 attacks, allowed us to secure additional funding for state and local law enforcement. Indeed, we were able to push through \$2.479 billion in funding for FY 2002, which was close to the levels appropriated in the mid-nineties. Since that time, we have fought for additional resources every step of the way; however, without Presidential support for a program or a majority in either house, it has been very difficult to ensure funding for these critical programs. I have introduced legislation to restore COPS funding each year since President Bush has entered office, and we have been able to restore some funding in Congress. However, state and local programs have been repeatedly cut by the Administration and its Republican allies.

²⁴ COPS Hearing, *Supra* Note 21 at 15.

The President's "Unacceptable" FY 2005 Budget Request

In fact, the President's FY 2005 budget request shortchanged local law enforcement even more than previous years. Funding levels for programs designed to assist state and local law enforcement agencies was reduced by \$1.57 billion in the President's proposed budget. The IACP concluded that if the proposed budget were enacted it could "significantly weaken the ability of state, tribal, and local law enforcement agencies to protect our communities from both traditional acts of crime and violence and the new specter of terrorism." Specifically, the IACP concluded:

- The combined funding proposal for law enforcement assistance programs at the Department of Justice and the Department of Homeland Security is \$3.251 billion. This is a reduction of \$1.57 billion or 31.9 percent from the combined 2004 enacted level.
- Funding for law enforcement assistance programs at the Department of Justice is reduced by \$1.035 billion, a 63 percent reduction from FY 2004 levels.
- Funding for law enforcement assistance programs at the Department of Homeland Security is reduced by \$535 million, a reduction of 16 percent.

Moreover, the IACP pointed out that this budget represents *the first decline for state and local assistance since September 11, 2001*. Ultimately, the IACP determined that the FY 2005 Budget submitted by President Bush "fails to meet the needs to the law enforcement community and is therefore unacceptable."²⁵

Insufficient Homeland Security Funds

When asked to justify this approach, the Administration correctly responds that federal resources for "first responders" are way up. Funding for state and local law

²⁵ IACP Report, *Supra* Note 24, at 9.

enforcement, first responders, and other homeland security needs has increased from \$2.4 billion in FY 2002 up to \$4.9 billion in FY 2004. Our vulnerabilities were exposed on 9/11 and there is little doubt that dramatic increases in all areas were needed. However, the funding provided to this point is still woefully inadequate. In fact, the Council on Foreign Relations estimated that in order for the federal government to meet the needs of first responders throughout the nation, the federal budget would need to be increased five-fold.²⁶ Evidence of the funding shortage is found in the following statistics:²⁷

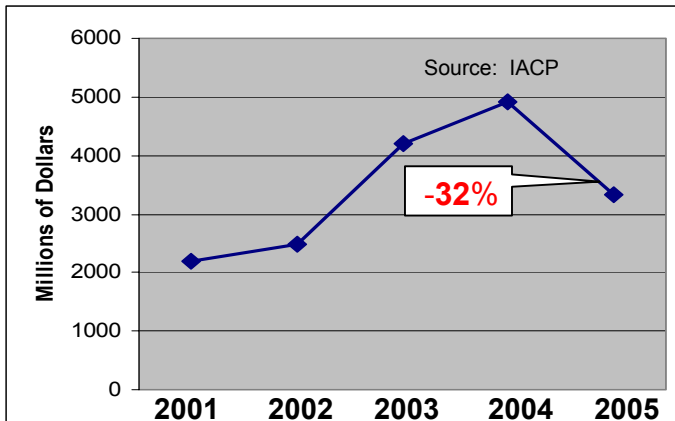
- 79 percent of mayors reported a funding shortfall for threat detection equipment, 77 percent for emergency response equipment, and 69 percent for personnel protection apparel.
- First responders – police, fire, emergency medical – were not prepared to respond to a chemical or biological attack.
- On average, fire departments around the country only have enough radios to equip half of the firefighters on a shift and breathing apparatuses for one-third.
- Police departments in cities across the country do not have the protective gear to safely secure a site following an attack with a weapon of mass destruction.

Nevertheless, the Administration has proposed to slash funding for state and local law enforcement, first responders, and homeland security by 32 percent.

²⁶ Report of Independent Task Force Sponsored by the Council on Foreign Relations, *Emergency Responders: Drastically Under-funded, Dangerously Unprepared*, Council on Foreign Relations (2003).

²⁷ Stephen Flynn, *America the Vulnerable: How Our Government is Failing to Protect us From Terrorism*, Harper Collins (2004).

State and Local Law Enforcement Funding: DHS and DOJ



Moreover, this response reflects a fundamental misunderstanding of the needs of local law enforcement. Back in 2001 I expressed this concern:

Wouldn't it be ironic if our war on terrorism unwittingly undercut our successful fight against crime? Yet some have – incredibly – actually suggested that we raid the COPS fund to pay for the war on terrorism. We must do both. Indeed, this is the time to spend more on the COPS program, not less.²⁸

This has been echoed by many criminal justice experts including Massachusetts Public Safety Secretary Edward Flynn who recently told me that “terrorism is the monster that ate criminal justice.” We simply need to do both, and excuses don't cut it when the safety of the American public is at stake. Yes, anti-terrorism training and equipment is important for first responders. But, in order to prevent a terrorist attack you need more cops. You can't simply say you're tough on terrorism without spending the money to keep an officer on the beat, and you can't keep crime down with budgets that shrink the size of law enforcement agencies.

State and Local Law Enforcement: Doing More With Less

²⁸ COPS Hearing, *Supra* Note 21, at 6.

The impact of these ill-advised policies is beginning to be felt at the local levels. Cities throughout the nation are facing budget shortfalls, which has forced local officials to lay-off police officers and eliminate innovative crime prevention techniques, such as community policing, that were so successful in the nineties. For example, a recent study found that there is a “Cop Crunch” in many cities in the United States.²⁹ The authors surveyed 44 of the largest law enforcement agencies in the country, and they found that 27 of the 44 law enforcement agencies surveyed were experiencing personnel shortfalls. Specifically, the report found that St. Louis has lost 160 officers, representing a 10.7 percent reduction in available officers. Los Angeles has lost over 570 officers, and Detroit has lost 224 officers.

The *New York Times* recently confirmed this troubling trend penning an investigative report entitled “As Cities Struggle, Police Get by With Less.” The reporter concluded that Cleveland recently laid off 250 officers, representing a 15 percent reduction in its police force, and Pittsburg has lost nearly 25 percent of its police force. In addition, the author found that the Los Angeles County Sheriff’s Department has let 1,200 deputies go in recent years, leading the closure of several jails and the premature release of many prisoners.³⁰ Moreover, the Houston Police Chief was forced to dismiss 190 jail guards and assign their duties to existing law enforcement officers. According to another recent article on this subject in the *USA Today*,³¹ New York City’s police force has lost nearly 3,500 officers since 2000. It’s unbelievable that New York City, which

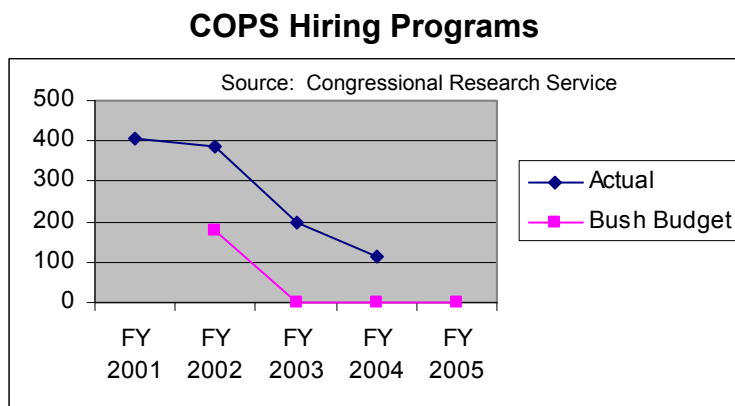
²⁹ Jose Cerda III, *Cop Crunch*, Democratic Leadership Council, (March, 2003).

³⁰ Fox Butterfield, *As Cities Struggle, Police Get by with Less*, New York Times (July 27, 2004).

³¹ Kevin Johnson, *Federal, Local Cuts Pull Cops off Streets*, USA Today (December 12, 2003) available at http://usatoday.com/news/nation/2003-12-01-cops-cover_x.htm.

has been on Code Orange alert since the system was created, has been forced to do more with less.

The cop crunch has also impacted smaller cities, such as Richmond, Virginia. Richmond was one of the real success stories of the nineties, and local officials have been hailed for their great work in making a dangerous city much safer during the last decade. Today, Richmond deploys 90 fewer active officers than it did during the late nineties, and citizens are feeling the impact. After seven consecutive years of steady decline, the city's murder rate jumped by 20 percent in 2002 and by another 15 percent in the first six months of 2003. Moreover, local officials report that with fewer officers on patrol, thugs are less afraid to roam the streets and to carry guns. Indeed, one local homeowner reported that "[p]olice used to control [crime]. They can't control it now. These young boys aren't scared at all."³²



Because of the budget crunch, local officials are being forced to rely on overtime and are reducing critical prevention programs such as community policing. While these

³² Benjamin Wallace-Wells, *Bush's War on Cops: Welcome Back to the 1980s. Thanks to White House Police, Police Departments are Understaffed, Cops are Overwhelmed, Murders are Up, and Killers are Getting Away*, Washington Monthly, (September 2003).

programs have become integral parts of the fight against crime, the day-to-day response to emergency service calls takes precedent, and with fewer officers to do the work, more proactive measures are being abandoned. For example offices in Minneapolis have reported that they are “losing touch” with the citizens that they serve because they are now required to patrol substantially more territory than before.³³ According to local experts, this leads to mounting fear in the community. In Cleveland, for example, specialized units such as the gang and auto theft squads have been eliminated and officers that used to work in neighborhood community policing stations have been put back into squad cars.³⁴ With community policing models being abandoned, officers can no longer work on the small things to prevent the big things from happening. Indeed, some criminal justice observers have reported that the approach being taken today is “broken windows in reverse.”³⁵

Crime Rates Inching Up

As detailed in previous sections, the enactment of the 1994 Act helped to reduce crime rates to the lowest levels in a generation. While arguments may continue regarding the precise reasons for this drop, the fact that American citizens are safer is indisputable. Unfortunately, this trend has not continued in the past few years, and, according to criminal justice experts, we are experience troubling crime indicators at the local level. According the FBI’s Uniform Crime Reports, serious crime rose 2.3 percent between 2000 and 2002. In particular, murders and motor vehicle thefts rose 4 percent and 7.4

³³ *Supra* Note 32.

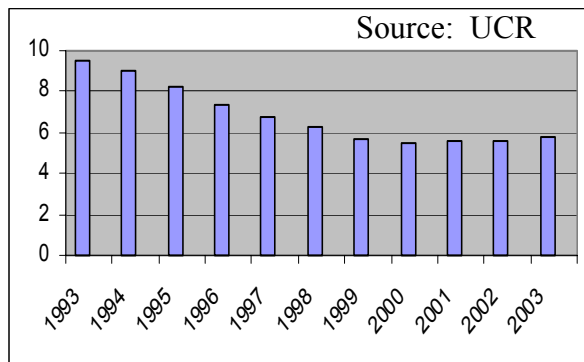
³⁴ *Supra* Note 31.

³⁵ *Supra* Note 33.

percent respectively. These numbers are particularly important because they are almost always reported to the police. As a result, they provide a very reliable indicator of crime trends. The 2003 preliminary UCR statistics show a drop in overall violent crime.

However, they also demonstrate that murders and motor vehicle thefts are still rising. For this and other reasons, many criminal justice experts are concerned that we are headed in the wrong direction.

Murder Rates / per 100,000 residents



CHALLENGES MOVING FORWARD

At this moment in our nation's history, our law enforcement officials are facing unprecedented challenges. While the Federal government is understandably pre-occupied with the war in Iraq and fighting terrorism, we should remain mindful of the dual responsibilities that state and local officials are undertaking to ensure the safety of our nation's communities. As anyone who has been to an airport since 9/11 can attest, state and local officers are undertaking many new homeland security duties. Moreover, the FBI is shifting resources to the war against terrorism. This leaves a gap in traditional law enforcement such as with bank robberies and drug trafficking. Local law enforcement will be required to fill this gap, and in this new age of terrorism it is critical that we provide them with the necessary resources to fight crime and secure the homeland. In

addition, we need to utilize new technologies, and we need to make sure that we keep our eye on the ball by focusing on emerging problems, such as prisoner reentry.

We Must Fully Support State and Local Law Enforcement's Dual Role of Combating Crime and Preventing Terrorism

The first thing that we need to provide the best chance to make our nation as safe as possible is to strongly support the efforts of state and local governments. States and municipalities are facing tough financial times right now, and they simply cannot afford to make the necessary investment in personnel, equipment, and training to meet the dual requirements of preventing crime and preparing for and possibly responding to a terrorist attack on the homeland. As such, it is incumbent on the federal government to provide as much assistance as possible. We simply must support programs that assist their efforts to combat traditional crime and fight terrorism.

In addition to their traditional role in combating local crime, state and local law enforcement will continue to play an increasing role in homeland security efforts. There are over 800,000 state and local officers, and there are approximately 11,000 FBI agents. As such, state and local officers will continue to work in conjunction with the federal government to secure the homeland. Indeed, a terrorism expert at the Brookings Institute recently stated that “before we conclude [that] a healthy sense of creativity at the CIA is our most important weapon against terrorism, we should remember the most basic tools of the trade such as strong local law enforcement agencies also are imperative.”³⁶

³⁶ Michael O’Hanlan and Jack Weiss, *How Police Can Intervene*, Washington Times (August 18, 2004) (Michael O’Hanlan is a Senior Fellow at the Brookings Institute and Jack Weiss is a member of the Los Angeles City Council).

The Brookings authors also argued that the community policing model is a necessary tool for winning the war on terrorism. More specifically, the authors stated:

Cops on the beat are a necessary part of the answer. They know their neighborhoods and often have hunches about who may be up to no good. They provide community policing, track identity theft and marriage fraud, and develop trusted local sources. They are in the best position to “collect” the dots that federal agencies need to “connect” to forecast the next attack.³⁷

Since 9/11, I have advocated the local officers’ role in the war against terrorism. We have learned that terrorist cells are active within our borders, and we need on-the-ground, neighborhood intelligence to discover and eliminate these cells. As such, we must re-create the federal, state, and local partnership that was so effective in reducing crime rates in the nineties, and we can do this by ensuring that we have sufficient officers on the beat with specialized training. The COPS program has proven effective in our efforts to assist state and local law enforcement, and it should be utilized to assist local departments to update their intelligence gathering abilities.

The COPS office has become an important partner to state and local agencies, and it provides the ability to quickly and responsively meet their needs. While the Bush Administration officials praise the efforts of our state and local partners in the fight against crime and terrorism and the COPS program’s ability to assist both of these efforts, funding for the program is being repeatedly cut. I believe that this is a mistake, and I’ll continue to push for additional resources for our state and local partners.

³⁷ *Id.*

We Must Effectively Utilize New Technologies

The proper and effective use of new technologies must be a key component of our strategy moving forward. We simply must harness new, available tools that can help us attain the upper-hand in the war against terrorism and traditional crime. Technologies assist our ability to track criminals, detect terrorist plots, develop prevention strategies, and communicate. As criminals attempt to gain the upper-hand on law enforcement through the use of new technologies, we must invest in new technologies to stay one step ahead.

One of the principal challenges is the development of interoperable communications. On 9/11, we tragically learned that New York's emergency services personnel simply couldn't talk to one another. This inability to communicate contributed to the chaos of the day, and it is quite possible that more lives could have been saved absent this technological failure. Most cities have this problem, and this did not happen overnight. For many years, separate agencies at the city and state level had used their individual budgets to purchase equipment especially suited to their needs. Little thought was given to the impact of the purchase on other agencies, and once the problem was realized, budgetary restraints and technical complexity prevented the necessary upgrades from being made. As it turns out, this is a problem of significant magnitude.

Another example where technology can be used to assist in the war against terror is crime mapping. Crime mapping has long been used to identify hot-spots for local crime to determine the best way to deploy forces, and it should be utilized by local

agencies to enhance homeland security. For example, local agencies can maintain a database regarding local businesses in the area that possess and sell Ammonium Nitrate or other dangerous substances. This information can be cross-referenced with daily arrest reports, and if one or more of these sites has been robbed the federal officials could be notified to determine whether a potential plot is in the works. Working with the FBI and the Department of Homeland Security, this local information can be invaluable to terrorism investigators.³⁸

We Must Curb Recidivism Through Smart Offender Reentry Programs

Another challenge that the law enforcement community will be required to address is the reentry of numerous prisoners to our towns and communities. Nearly 650,000 people are released from federal or state prisons to our communities each year, and local jails release more than 10 million per year. The vast majority of prisoners return to their home communities with few job skills, inadequate drug treatment, insufficient housing, and deficient basic life skills. As a result, nearly 2/3 of released state prisoners are expected to be re-arrested for a felony or serious misdemeanor within three years after release. In other words, literally hundreds of thousands of serious crimes are committed by people who have already served hard time in jail each year. This is unacceptable, and we must take strong, common-sense efforts now to assist ex-prisoners with their transition back into society. After all, 95 percent of all prisoners we lock-up today will eventually get out, and the current recidivism rate is unacceptable.

³⁸ *COPS Innovations: A Closer Look, Local Law Enforcement Responds to Terrorism*, The Office of Community Oriented Policing Services, U.S. Department of Justice (2003) available at www.cops.usdoj.gov.

We recognized these high recidivism rates back when we passed the 1994 Act by creating innovative drug treatment programs for state and federal inmates to help them kick their habit. At the time, I realized that this was a growing problem and that we would need to do more. In 2000, I introduced a bill to build upon the efforts of the 1994 Act – the “Offender Reentry and Community Safety Act of 2000” (S. 2908). This bill would have created demonstration reentry programs for federal, state, and local prisoners to assist high-risk offenders who had served their legal sentence but still posed a high risk of recidivism upon reentry. Typically, they lacked the education, job skills, stable family or living arrangements, and the health services they need to successfully reintegrate into society.

To his credit, President Bush mentioned the reentry issue in his 2004 State of the Union Address. As a result, bipartisan efforts received new focus in both chambers of Congress. While I credit President Bush for acknowledging this as a federal responsibility, the White House has remained silent since that speech. I hope that in the last remaining weeks of this Congress the President will push for passage of legislation to address the re-entry problem. To be sure, reducing recidivism through successful re-entry programs is an enormous undertaking. With 650,000 prisoners returning to the streets annually, we need to take action today. It is a natural, significant step in our campaign against crime and one that we should all be able to take together.

CONCLUSION

It is clear that we took the right approach to making American safer when we passed the 1994 Act. We were able to reduce crime rates that were at historically high levels and reduce them to the lowest levels in a generation. Literally millions of Americans have been spared being a victim because of the steps that we took during the summer of 1994. Because we invested in our state and local law enforcement partners and invested in proven crime prevention programs, America is a safer nation. I have often said that crime control is like mowing a yard in that it requires continuous attention and maintenance. The Bush Administration has simply not learned that lesson, and they have failed to invest in the programs that have worked. As a result, we are facing an officer shortage in many cities across the country, effective local programs are being abandoned, and troubling crime trends are emerging.

The law enforcement community is also facing the new challenge of homeland security. These duties will redefine the role of federal, state, and local law enforcement for years to come. However, this does not give the Administration the freedom to ignore traditional crime. Rather, it requires them to make the tough choices to do both. Simply put, there is no excuse to not fully fund programs designed to assist our state and local law enforcement partners on their dual efforts to combat traditional crime and fight terrorism. We need to increase funding for these efforts rather than cut or eliminate them.

Undoubtedly, there are many challenges that lie ahead. And, in an era of code orange alerts and rising crime rates, the American people are very concerned for their

safety. Although few remember, there were similar concerns in the early nineties. At that time, many thought there was little we could do to reduce the gang murders and the random attacks that were reported in the news every evening. At that time, we took a tough, balanced, proactive approach. It worked, and we helped make America a safer nation. Today, we face a daunting yet similar challenge, and, once again, I believe that we need to reaffirm our commitment to our state and local partners and continue to focus on crime and terrorism prevention programs. In this way, we can meet the challenges of crime and terrorism and continue our journey to make America one of the safest nations in the world.